



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY

LAR

US EPA RECORDS CENTER REGION 5



527078

August 19, 2005

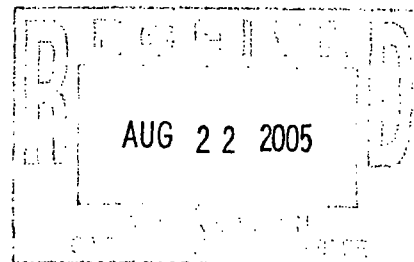
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STEVEN E. CHESTER  
DIRECTOR

Mr. Joseph E. Quandt  
Zimmerman, Kuhn, Darling, Boyd, Taylor and Quandt, PLC  
P.O. Box 987  
Traverse City, Michigan 49685-0987



Dear Mr. Quandt:

SUBJECT: Williamsburg Receiving and Storage, LLC, WMD Order No. 31-07-02

This letter is in response to your August 4, 2005, letter concerning a request to modify the Administrative Consent Order, WMD Order No. 31-07-02 (ACO), on behalf of Williamsburg Receiving and Storage, LLC (WRS), and your August 5, 2005, letter addressing issues raised in a July 25, 2005, letter from the Department of Environmental Quality (DEQ), Water Bureau (WB). WRS is requesting authorization from the DEQ to discharge its process wastewater to the groundwater via a rapid infiltration bed system until a final determination is made by the DEQ on an application for a groundwater discharge permit to be submitted by WRS. WRS is proposing to dilute the process wastewater to meet applicable groundwater discharge standards under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

The DEQ has reviewed the August 4, 2005, Preliminary Design and Operation Proposal prepared by Inland Seas Engineering on behalf of WRS. Based on its initial review of the proposal, the DEQ has identified the following deficiencies:

1. A scientific basis was not provided to support the target biological oxygen demand (BOD) concentration of 400 milligrams per liter (mg/l). At this target concentration, it appears the loading of BOD in pounds per square foot may exceed the rates observed at other sites where BOD has caused anaerobic soil conditions and thereby the subsequent mobilization of metals leaching into the groundwater. The DEQ believes that the initial BOD concentration should not exceed 100 mg/l with downward adjustments if groundwater monitoring indicates adverse impacts.
2. WRS did not provide hydrogeologic information describing the actual or potential impacts of groundwater withdrawal on the aquifer and adjacent water supply wells. The amount of dilution water necessary to achieve discharge standards may exceed one million gallons per day and it is critical to assess any potential impacts such a withdrawal may have.
3. It is very important to delineate the location of groundwater production wells, as the withdrawal of high volumes may begin to recirculate a portion of the

discharged wastewater through the production wells, thus, resulting in a higher concentration of chloride in the dilution water. A groundwater flow and transport model must be provided to this office to determine whether the ambient background concentration of chloride in the aquifer would be impacted, the time frame for the predicted changes, and what adjustments in the volume of dilution water will be necessary.

4. There is insufficient scientific information to assess whether the discharge area can handle the additional hydraulic loading. The initial calculations of an application rate were based on pump testing done at the facility. Infiltration tests should be performed and the information from such tests evaluated prior to completing a determination on the feasibility of the proposal.

Without a complete application package, including sufficient information to address the above noted concerns, the DEQ cannot adequately review the proposal to assure that no adverse impacts will occur. Therefore, the DEQ will not authorize the discharge on an interim basis as a modification of the ACO. When WRS submits a complete application package, the DEQ will conduct a thorough review of the proposal, provide appropriate opportunity for public comment, and make a final determination. The DEQ also suggests that WRS segregate the high strength wastewater and address the disposal of that wastewater separately from the other sources.

While the DEQ recognizes the immediacy of your client's needs, the DEQ needs sufficient technical information before a decision is possible regarding the appropriateness and efficacy of the proposal; particularly in light of the noted information gaps in the proposal. Since entry of the ACO in August 2002, the DEQ has had several discussions with WRS regarding its wastewater treatment options. At no time during the intervening period of time has WRS submitted a discharge permit application. WRS waited until receiving the DEQ's June 27, 2005, letter, essentially when WRS began accepting cherries from the 2005 crop, to inquire as to what could be done to legally discharge receiving water from the 2005 cherry crop. As I am sure you know, the unauthorized discharge of cherry receiving water during July 2004 was the subject of a demand for stipulated penalties by the DEQ. During negotiations on that matter at that time, WRS was advised that it needed to obtain authorization to discharge process wastewater prior to the 2005 cherry season. A comprehensive resolution of WRS's wastewater discharge problems was not proffered until the conference call with the DEQ on August 3, 2005. You stated during this conference call with the DEQ that WRS was informed in April 2005 that the treatment system it had been evaluating for over a year was not a viable solution for resolving the polluting and nuisance characteristics of its process wastewater.

The DEQ believes that WRS has a viable option to utilize on an interim basis under the terms of the existing ACO to lawfully transport and dispose of process wastewater generated at the facility on an ongoing basis. The DEQ is willing to consider a schedule for WRS to dispose of the already stockpiled wastewater as long as the wastewater is adequately contained to prevent additional illegal discharges.

Lastly, the DEQ appreciates the corrective action that WRS has undertaken in response to the July 25, 2005, letter. Further, we hope that this matter can be fully resolved through implementing an effective, permanent solution in the very near future. If you have any questions regarding the specific deficiencies in the proposal, please call Mr. James Janiczek, Chief, Groundwater Permits Unit, Permits Section, Lansing Operations Division, WB, at 517-373-7262. Any other questions can be directed to Mr. Rick Rusz, Enforcement Unit, Field Operations Division, WB, at 517-335-4709, or you may contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Powers". The signature is fluid and cursive, with the first name "Richard" being more prominent.

Richard A. Powers, Chief  
Water Bureau  
517-335-4176

cc: Mr. Christopher Hubbel, WRS  
Mr. Andrew Smits, Inland Seas Engineering  
Mr. Alan F. Hoffman, Department of Attorney General  
Mr. Stanley F. Pruss, Deputy Director, DEQ  
Ms. Carol Linteau, Legislative Liaison, DEQ  
Mr. Richard A. Powers, DEQ  
Mr. Frank J. Baldwin, DEQ  
Mr. Michael Stifler, DEQ  
Mr. James Janiczek, DEQ  
Mr. Rick Rusz, DEQ